

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 551

By: Senator J. Dotson
By: Representative Brooks

For An Act To Be Entitled

AN ACT TO AMEND THE REFERENCES IN THE ARKANSAS CODE TO "DIRECTOR OF THE DIVISION OF HIGHER EDUCATION" TO THE "COMMISSIONER OF THE DIVISION OF HIGHER EDUCATION"; TO AMEND THE MEANS BY WHICH THE DIRECTOR OF THE DIVISION OF HIGHER EDUCATION IS APPOINTED; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ARKANSAS CODE AS IT PERTAINS TO REFERENCES TO THE DIRECTOR OF THE DIVISION OF HIGHER EDUCATION; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 1-4-114(b)(1), concerning the person designated or appointed by the Governor as Poet Laureate of the State of Arkansas, is amended to read as follows:

(b)(1) The person designated or appointed by the Governor as Poet Laureate of the State of Arkansas shall be a person whose name was selected from a list of names submitted to the Governor upon recommendation of a committee consisting of:

(A) Two (2) principal heads of English departments of state-supported universities or colleges who are selected by the ~~Director~~ Commissioner of the Division of Higher Education; and

(B) Two (2) members of the Poets' Roundtable of Arkansas



who are selected by the President of the Poets' Roundtable of Arkansas.

SECTION 2. Arkansas Code § 6-1-404(a)(4), concerning the members of the School Leadership Coordinating Council, is amended to read as follows:

(4) The ~~Director~~ Commissioner of the Division of Higher Education;

SECTION 3. Arkansas Code § 6-5-1102(b), concerning the membership of the Council on Postsecondary Education and Career Readiness, is amended to read as follows:

(b) The council shall consist of eleven (11) members as follows:

(1) The Commissioner of Elementary and Secondary Education or his or her designee;

(2) The ~~Director~~ Commissioner of the Division of Higher Education or his or her designee;

(3) The Director of the Division of Career and Technical Education or his or her designee;

(4) The Director of the Arkansas Economic Development Commission or his or her designee;

(5) The Director of the Division of Workforce Services or his or her designee;

(6) A president or chancellor of an Arkansas four-year institution of higher education or his or her designee, appointed annually by the ~~Director~~ Commissioner of the Division of Higher Education;

(7) The Executive Director of the Arkansas Association of Educational Administrators or his or her designee;

(8) The Executive Director of Arkansas Community Colleges or his or her designee;

(9) The Executive Director of the Arkansas Education Association or his or her designee;

(10) The Executive Director of the Arkansas School Boards Association or his or her designee; and

(11) The President of the Arkansas State Chamber of Commerce and the Associated Industries of Arkansas or his or her designee.

SECTION 4. Arkansas Code § 6-11-208(a)(1), concerning the membership

of the Regional Educational Career Alternative School System for Adjudicated Youth multiagency task force, is amended to read as follows:

(a)(1) A multiagency task force, staffed and supported by the Division of Career and Technical Education, is established and shall consist of five (5) members, including:

(A) The Commissioner of Elementary and Secondary Education or his or her designee;

(B) The Director of the Division of Career and Technical Education or his or her designee;

(C) The ~~Director~~ Commissioner of the Division of Higher Education or his or her designee;

(D) The Secretary of the Department of Human Services or his or her designee; and

(E) The Director of the Division of Workforce Services or his or her designee.

SECTION 5. Arkansas Code § 6-15-2501(c)(3), concerning the appointment of a liaison to the Office of Education Renewal Zones, is amended to read as follows:

(3) The ~~Director~~ Commissioner of the Division of Higher Education shall assign one (1) individual from the staff of the Division of Higher Education to serve as a liaison to the office.

SECTION 6. Arkansas Code § 6-16-127(d), concerning the receipt of donations, grants, and appropriations by the Division of Higher Education under the Arkansas Foreign Language Teacher Training Program, is amended to read as follows:

(d)(1) The awards granted under the provisions of this section and § 6-16-128 may be funded by donations, grants, or legislative appropriation.

(2) All donations, grants, and appropriations received shall be accounted for by the Division of Higher Education.

(3) The ~~Director~~ Commissioner of the Division of Higher Education may solicit and receive donations and grants for the purpose of making awards.

(4) The provisions of this section and § 6-16-128 shall be contingent on the appropriation and funding necessary to allow the Division

of Higher Education to carry out the duties assigned it in this section and § 6-16-128.

SECTION 7. Arkansas Code § 6-42-303(b)(3)(A), concerning the ex officio nonvoting members serving on the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts, is amended to read as follows:

(3)(A) In addition to appointed members of the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts, nine (9) ex officio nonvoting members shall also serve on the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts as follows:

- (i) The Commissioner of Elementary and Secondary Education;
- (ii) The ~~Director~~ Commissioner of the Division of Higher Education;
- (iii) The Director of the Arkansas Economic Development Commission or his or her designee;
- (iv) The Director of the Division of Arkansas Heritage;
- (v) The president of the parent association of the school;
- (vi) The president of the student government of the school;
- (vii) The president of the faculty and staff Governing Council of the Arkansas School for Mathematics, Sciences, and the Arts;
- (viii) The Chair of the Association for Alumni and Friends of ASMSA, or his or her designee; and
- (ix) The Chair of the ASMSA Foundation Fund Board of Ambassadors, or his or her designee.

SECTION 8. Arkansas Code § 6-50-702(6), concerning the definition of "governing council" under the Arkansas Existing Workforce Training Act of 1995, is amended to read as follows:

(6) "Governing council" means the Director of the Arkansas Economic Development Commission, the ~~Director~~ Commissioner of the Division of

Higher Education, and the Director of the Office of Skills Development, or their designees;

SECTION 9. Arkansas Code § 6-51-213(c)(1), concerning the administration of certain federal and state vocational education laws, is amended to read as follows:

(c)(1) The ~~Director~~ Commissioner of the Division of Higher Education, by and with the advice and consent of the Arkansas Higher Education Coordinating Board, may designate assistants as may be necessary to carry out properly the provisions of this subchapter.

SECTION 10. Arkansas Code § 6-51-605(a)(2), concerning nonvoting, ex officio members of the State Board of Private Career Education, is amended to read as follows:

(2) The ~~Director~~ Commissioner of the Division of Higher Education and the Director of the Division of Career and Technical Education or their designees shall serve as nonvoting, ex officio members of the board.

SECTION 11. Arkansas Code § 6-51-605(b)(1), concerning the election of officers to the State Board of Private Career Education, is amended to read as follows:

(b)(1) The board may elect the necessary officers, acting by and through the ~~Director~~ Commissioner of the Division of Higher Education.

SECTION 12. Arkansas Code § 6-51-607(f), concerning the use of funds in the Private Career School Student Protection Trust Fund, is amended to read as follows:

(f) Any amounts in the Private Career School Student Protection Trust Fund above two hundred thousand dollars (\$200,000) may be used with the approval of the ~~Director~~ Commissioner of the Division of Higher Education to:

(1) Fund educational seminars and other forms of educational projects for the use and benefit of licensed school administrators, faculty, staff, or admissions representatives;

(2) Provide for travel expenses and registration fees to send staff or board members to accrediting meetings, seminars, or meetings relating to the school sector;

(3) Provide staff assistance; or

(4)(A) Fund student scholarships as provided for by the Higher Education Grants Fund Account.

(B) Priority of funding scholarships under subdivision (f)(4)(A) of this section shall be given to the funding of veterinary medicine student loans at the College of Veterinary Medicine of Mississippi State University.

SECTION 13. Arkansas Code § 6-51-609(c)(2)(A), concerning the endorsement of an admissions representative's license, is amended to read as follows:

(2)(A) The license shall be endorsed by the ~~Director~~ Commissioner of the Division of Higher Education.

SECTION 14. Arkansas Code § 6-51-615(b), concerning the denial of an admissions representative's license, is amended to read as follows:

(b) The ~~Director~~ Commissioner of the Division of Higher Education, upon receipt of information considered dependable which indicates fraud, misrepresentation, or unethical practices on the part of an applicant, may deny issuance of a license applied for or may suspend immediately a license already issued pending a review by the Division of Higher Education.

SECTION 15. Arkansas Code § 6-51-618(d), concerning a school's appeal regarding penalties imposed on a school that violates the law as it pertains to private resident and correspondence schools, is amended to read as follows:

(d) Any school dissatisfied with the penalties imposed may seek judicial review, provided the school files notice of appeal in Pulaski County Circuit Court within fifteen (15) calendar days immediately following the date of notification of this action by the ~~Director~~ Commissioner of the Division of Higher Education.

SECTION 16. Arkansas Code § 6-60-303(d)(1), concerning the appropriation transfer procedures for tuition revenue that would have been generated by charging an out-of-state tuition rate instead of an approved in-state or out-of-district tuition rate, is amended to read as follows:

(1) The ~~Director~~ Commissioner of the Division of Higher Education shall determine the difference between the amount of tuition revenue ~~which~~ that would have been generated by charging the Arkansas Higher Education Coordinating Board-approved out-of-state tuition rate to the students as compared to the approved in-state or out-of-district rate.

SECTION 17. Arkansas Code § 6-61-129(d)(1), concerning the meeting of individuals to review applications for the creation of a center of excellence, is amended to read as follows:

(d)(1) Two (2) representatives of the division as designated by the ~~Director~~ Commissioner of the Division of Higher Education, and one (1) representative of the Arkansas Economic Development Commission shall meet as needed to review applications jointly.

SECTION 18. Arkansas Code § 6-61-504 is amended to read as follows:

6-61-504. Division of Community Junior Colleges created.

The ~~Director~~ Commissioner of the Division of Higher Education shall establish a separate Division of Community Junior Colleges within the Division of Higher Education.

SECTION 19. Arkansas Code § 6-61-803 is amended to read as follows:

6-61-803. Arkansas Research Development Program created – Administration.

There is created a program to be known as the “Arkansas Research Development Program”, which shall be administered by the ~~Director~~ Commissioner of the Division of Higher Education.

SECTION 20. Arkansas Code § 6-61-808(b)(1), concerning the review of applications for funds under the Arkansas Research Development Act, is amended to read as follows:

(b)(1) The ~~Director~~ Commissioner of the Division of Higher Education shall review the applications and shall approve applications in the amount he or she determines appropriate, after seeking the advice of the Legislative Council.

SECTION 21. Arkansas Code § 6-61-902(c), concerning the work conducted

by the Office of Accountability within the Division of Higher Education, is amended to read as follows:

(c) Under the direction of the ~~Director~~ Commissioner of the Division of Higher Education, the staff of the office shall work cooperatively with and provide any necessary assistance to the House Committee on Education and the Senate Committee on Education.

SECTION 22. Arkansas Code § 6-61-1403(a), concerning the recommendation for additions or alterations to the common course number system, is amended to read as follows:

(a) The ~~Director~~ Commissioner of the Division of Higher Education shall recommend to the Arkansas Higher Education Coordinating Board any additions or alterations to the common course numbering system.

SECTION 23. Arkansas Code § 6-62-105(c)(1), concerning the authorization of state-supported institutions to borrow funds from a private financial institution, is amended to read as follows:

(c)(1) Notwithstanding subsections (a) and (b) of this section or § 19-4-705, the Chief Fiscal Officer of the State and the ~~Director~~ Commissioner of the Division of Higher Education may authorize a state-supported institution of higher education to borrow funds from a private financial institution provided that the board of trustees certifies that borrowing funds from a private financial institution:

(A) Is required to continue essential operations of the state-supported institution of higher education into the following fiscal year; and

(B) Will be repaid not later than one hundred twenty (120) days after the start of the following fiscal year.

SECTION 24. Arkansas Code § 6-63-307(a), concerning salary restrictions for employees of state institutions of higher education, is amended to read as follows:

(a) An employee drawing a salary or other form of compensation from an institution of higher education shall not be paid an additional salary or receive additional compensation other than reimbursement for actual expenses from that institution or from any other agency or institution of higher

education except upon written certification to and approval by the ~~Director~~ Commissioner of the Division of Higher Education and by the head of each agency or institution that the work performed by the employee for the other agency or institution of higher education does not interfere with the proper and required performance of the employee's primary duties and that the combined salary payments from both agencies or institutions of higher education will not exceed the larger maximum annual salary of the line item position authorized for either agency from which the employee is to be paid.

SECTION 25. Arkansas Code § 6-67-114(b), concerning the biennial report to the General Assembly submitted by the Board of Trustees of the University of Central Arkansas, is amended to read as follows:

(b) The report shall be incorporated in the report of the ~~Director~~ Commissioner of the Division of Higher Education and shall set forth the financial and scholastic condition of the University of Central Arkansas, furnish such suggestions as in the board's judgment are necessary for the improvement of the university, and shall make any further recommendations that may seem wise and expedient to the board.

SECTION 26. Arkansas Code § 6-84-104(b), concerning the cotrustees of the Arkansas Brighter Future Fund Plan Trust, is amended to read as follows:

(b) The cotrustees of the trust shall be the ~~Director~~ Commissioner of the Division of Higher Education, the Executive Director of the Arkansas Teacher Retirement System, and the Treasurer of State.

SECTION 27. Arkansas Code § 6-84-105(a), concerning the administration of the Section 529 Plan Review Committee under the Arkansas Brighter Future Fund Plan Trust, is amended to read as follows:

(a) This chapter shall be administered by the Section 529 Plan Review Committee, which shall be composed of:

- (1) The ~~Director~~ Commissioner of the Division of Higher Education;
- (2) The Executive Director of the Arkansas Teacher Retirement System; and
- (3) The Treasurer of State.

SECTION 28. Arkansas Code § 6-85-205(e), concerning the review and evaluation of the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

(e) The ~~Director~~ Commissioner of the Division of Higher Education shall review and evaluate the operation of the program with regard to eligibility criteria and size of the scholarship award to ensure that the program's operation meets the intent of this subchapter.

SECTION 29. Arkansas Code § 6-85-216(c), concerning the required annual report to the Legislative Council concerning the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

(c) The division shall use the information provided under this section to conduct the research and analysis needed to support the annual report of the ~~Director~~ Commissioner of the Division of Higher Education to the Legislative Council under § 6-85-205.

SECTION 30. Arkansas Code § 6-85-219(a)(2), concerning information included in the annual report to the Legislative Council concerning the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

- (2) The information provided shall include without limitation:
- (A) Current year expenditures for scholarships and grants under the Arkansas Academic Challenge Scholarship Program;
 - (B) Projected obligations for succeeding years from each scholarship or grant funding source;
 - (C) Fund balances for the:
 - (i) Higher Education Grants Fund Account; and
 - (ii) Trust accounts maintained by the ~~Director~~ Commissioner of the Division of Higher Education to hold the net proceeds from the state lottery;
 - (D) An evaluation of whether the net proceeds from the state lottery available for the program supplement and do not supplant nonlottery state educational resources; and
 - (E) Other information that the Legislative Council or the General Assembly requests.

SECTION 31. Arkansas Code § 15-3-104(c), concerning the membership of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission, is amended to read as follows:

(c) The board shall consist of the ~~Director~~ Commissioner of the Division of Higher Education or the ~~Director~~ Commissioner of the Division of Higher Education's designee and thirteen (13) directors who shall be appointed by the Governor, subject to confirmation by the Senate, as follows:

(1) Three (3) directors shall be engineers or scientists recognized for their scientific or technological research efforts;

(2) Two (2) directors shall be appointed as representatives of academic institutions who have an extended extensive involvement in science and technology research;

(3) Five (5) directors shall be representatives of the private sector of the state, who shall be persons with knowledge or experience in the fields of agriculture, forestry, finance, economic development, or science and technology; and

(4) Three (3) directors shall be appointed as representatives of the private sector of the state, who shall be persons with knowledge or experience in the field of manufacturing.

SECTION 32. Arkansas Code § 19-4-1604(c), concerning approval by the Director of the Division of Higher Education for a person to be paid a salary or compensation from an institution of higher education other than the institution of higher education that employs the person, is amended to read as follows:

(c) A person drawing a salary or other compensation from a state agency or institution of higher education shall not be paid a salary or compensation from another institution of higher education except upon the written certification to and approval by the ~~Director~~ Commissioner of the Division of Higher Education that the:

(1) Work performed for the other state agency or institution of higher education does not interfere with the proper and required performance of the person's duties; and

(2) Combined salary payments from the state agency and institution of higher education do not exceed the larger maximum annual salary of the line-item position authorized for either the agency or

institution of higher education from which the employee is being paid.

SECTION 33. Arkansas Code § 19-5-501(b)(1)(E) and (F), concerning temporary loans made to institutions of higher education, is amended to read as follows:

(E) Temporary loans may be made to the institutions of higher education for operational purposes. In making these loans, the following procedures shall be applicable. The institutions of higher education shall submit requests for loans to both the ~~Director~~ Commissioner of the Division of Higher Education and the Chief Fiscal Officer of the State setting forth the need for the loan. The requests shall include at least the following:

(i) The current total cash balance of all accounts of the requesting institution's cash funds;

(ii) The reasons why the cash fund balances and their general revenue fund balances are insufficient to meet current obligations;

(iii) The anticipated duration of the loan; and

(iv) A proposed repayment schedule.

(F) The Chief Fiscal Officer of the State and the ~~Director~~ Commissioner of the Division of Higher Education shall review the request for the loan. The ~~Director~~ Commissioner of the Division of Higher Education shall recommend, in writing, the approval or disapproval of the loan and the reasons for the recommendation to the Chief Fiscal Officer of the State. The Chief Fiscal Officer of the State shall review the institution's request, the funds available in the Budget Stabilization Trust Fund, and the recommendation of the ~~Director~~ Commissioner of the Division of Higher Education. The Chief Fiscal Officer of the State may request such additional information as is deemed necessary to make a determination as to whether the request should be approved. If the Chief Fiscal Officer of the State determines that the request is proper and necessary for the operation of the institution and that sufficient funds are available, the Chief Fiscal Officer of the State shall approve the request and establish a repayment schedule for the loan. If the Chief Fiscal Officer of the State determines that the loan is not necessary or required, or that funds are not available, the Chief Fiscal Officer of the State shall deny the request. The Chief Fiscal Officer

of the State shall communicate in writing to the institution and to the ~~Director~~ Commissioner of the Division of Higher Education the reasons for disapproval of the requested loan. All loans made to the institutions of higher education under the provisions of this section shall be repaid in full by June 30 of the fiscal year in which the loan was made. In the event an agency or program is established by the General Assembly which is to be supported solely from other than general revenues or federal funds, the Chief Fiscal Officer of the State may make a temporary loan from the Budget Stabilization Trust Fund to the agency or program to the extent necessary for carrying out the intent of the enabling legislation. The amount of the loan shall be determined by the Chief Fiscal Officer of the State, and the loans shall be repaid in full by June 30 of the fiscal year in which the loan was made;

SECTION 34. Arkansas Code § 19-5-1018(d), concerning the disbursement of funds accrued to the Higher Education Building Maintenance Fund, is amended to read as follows:

(d) Those funds accruing to the Higher Education Building Maintenance Fund under the provisions of this section shall be disbursed by the ~~Director~~ Commissioner of the Division of Higher Education in accordance with the recommendations of the Arkansas Higher Education Coordinating Board, but only after the board shall determine the projects and priorities for which the funds shall be used, and after the board shall have sought the advice of the Legislative Council with respect to them.

SECTION 35. Arkansas Code § 19-5-1076(d)(1), concerning the determination of a difference in tuition revenue under the Higher Education Tuition Adjustment Fund, is amended to read as follows:

(d)(1) The ~~Director~~ Commissioner of the Division of Higher Education shall determine the difference between the amount of tuition revenue which would have been generated by charging the Arkansas Higher Education Coordinating Board-approved out-of-state tuition rate to said students as compared to approved in-state or out-of-district rates.

SECTION 36. Arkansas Code § 19-11-1004(c)(3), concerning the receipt of additional compensation by an employee of an institution of higher

education, is amended to read as follows:

(3) An employee of an institution of higher education performing professional or consulting services to a state agency may receive additional compensation if:

(A) The institution of higher education requests and receives written approval from the ~~Director~~ Commissioner of the Division of Higher Education concerning the amount of additional compensation to be paid to any employee; and

(B) The total salary payments received from the employee's regular salaried position and amounts received for services performed under a professional services contract do not exceed one hundred twenty-five percent (125%) of the maximum annual salary authorized by law for the employee's position with the institution of higher education.

SECTION 37. Arkansas Code § 19-12-117(a)(3), concerning the membership of the Director of the Division of Higher Education on the Arkansas Tobacco Settlement Commission, is amended to read as follows:

(3) The ~~Director~~ Commissioner of the Division of Higher Education or his or her designee;

SECTION 38. Arkansas Code § 20-45-302(c)(7), concerning the membership of a representative from higher education on the Arkansas Suicide Prevention Council, is amended to read as follows:

(7) A representative from higher education, to be designated by the ~~Director~~ Commissioner of the Division of Higher Education;

SECTION 39. The introductory language of Arkansas Code § 21-5-223(b)(1), concerning the authorization of the payment of funds on a regular payroll schedule as severance pay, is amended to read as follows:

(b)(1) If the head of an institution of higher education determines that it is necessary to implement the state workforce reduction policy due to institution organization structure change, budgetary reductions, abolishment of positions or duties, loss of functional responsibility by the institution, or the loss of federal funding, grants, or other special funds, the head of the institution, upon approval by the ~~Director~~ Commissioner of the Division of Higher Education, may authorize the payment of funds on a regular payroll

schedule as severance pay to full-time, part-time, and job sharing classified employees in regular positions affected by the workforce reduction on the basis of the following pro rata lump sum for completed years of service, including any formally implemented probationary period:

SECTION 40. Arkansas Code § 21-5-1402(9), concerning the definition of "job sharing" under the Higher Education Uniform Classification and Compensation Act, is amended to read as follows:

(9)(A)(i) "Job sharing" means a form of employment in which the hours of work of two (2) or more persons are arranged in such a way as to cover one (1) regular full-time position.

(ii) The division may authorize job sharing for any regular full-time position.

(B) The ~~Director~~ Commissioner of the Division of Higher Education or his or her designee shall promulgate necessary rules to carry out this subdivision (9);

SECTION 41. Arkansas Code § 21-5-1405(a)(6)(C), concerning the procedure to allow the head of an institution of higher education to review the qualifications of applicants whose education and experience do not meet or exceed that required by the class specification, is amended to read as follows:

(C) The procedure under subdivision (a)(6)(A) of this section shall require the final approval of the ~~Director~~ Commissioner of the Division of Higher Education, with the review of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee;

SECTION 42. Arkansas Code § 21-5-1409(c)(1), concerning the procedure for the increase of the maximum annual salary for an institution of higher education employee under the Higher Education Uniform Classification and Compensation Act, is amended to read as follows:

(c)(1) In addition to a compensation increase under subsection (b) of this section, the maximum annual salary for which an employee covered by this subchapter is eligible may be increased:

(A) By a percentage up to two percent (2%) with written approval by the ~~Director~~ Commissioner of the Division of Higher Education; or

(B) More than two percent (2%) only with written approval of the Director of the Division of Higher Education after review by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 43. Arkansas Code § 21-5-1410(c)(1), concerning a request by an institution of higher education for a special rate of pay for a specific classification or position under the Higher Education Uniform Classification and Compensation Act, is amended to read as follows:

(c)(1) An institution may request a special rate of pay for a specific classification or position due to prevailing market rates of pay up to the midpoint pay level of the appropriate grade of a classification on the appropriate pay table for the assigned grade with the written approval of the ~~Director~~ Commissioner of the Division of Higher Education.

SECTION 44. Arkansas Code § 21-5-1411(c)(3)(B), concerning approval of a shift schedule, classifications, positions, and the percentage of a shift differential under the Higher Education Uniform Classification and Compensation Act, is amended to read as follows:

(B) The shift schedule, classifications, positions, and the percentage of shift differential for which the class titles are eligible shall be submitted to the division for approval by the ~~Director~~ Commissioner of the Division of Higher Education.

SECTION 45. Arkansas Code § 21-5-1412(c)(2)(B), concerning the certification of hazardous duty differential under the Higher Education Uniform Classification and Compensation Act, is amended to read as follows:

(B) The positions shall be certified by the institution as having been assigned to a work environment that poses an increased risk of personal injury and shall be submitted as part of the plan for payment of a hazardous duty differential to the division for approval by the ~~Director~~ Commissioner of the Division of Higher Education after review and approval of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 46. Arkansas Code § 21-5-1413(a)(1), concerning the request by

an institution of higher education regarding a salary administration grid under the Higher Education Uniform Classification and Compensation Act, is amended to read as follows:

(a)(1) An institution of higher education may request that a salary administration grid be approved for specific classifications of positions assigned to the pay plan as established in § 21-5-1410 if the:

(A) Institution has documented the need for a salary administration grid for specified positions or classifications;

(B) Terms and conditions of a salary administration grid proposed by the institution address the needs of the targeted positions;

(C) Cost of implementing and maintaining a salary administration grid is within the institution's existing appropriation and the implementation does not use funds specifically set aside for other programs within the institution; and

(D) Salary administration grid has been approved by the ~~Director~~ Commissioner of the Division of Higher Education after review by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 47. Arkansas Code § 21-5-1416(b), concerning the publishing of policies and procedures for the administration of career service recognition payments under the Higher Education Uniform Classification and Compensation Act, is amended to read as follows:

(b) The Division of Higher Education shall establish and publish policies and procedures for the administration of career service recognition payments to employees of institutions upon a determination by the ~~Director~~ Commissioner of the Division of Higher Education that the respective institution has sufficient funds available for that purpose.

SECTION 48. Arkansas Code § 23-115-801(c)(1), concerning the certification to the Office of the Arkansas Lottery of net proceed amounts from the state lottery that are needed to fund scholarships under the Arkansas Scholarship Lottery Act, is amended to read as follows:

(c)(1) The ~~Director~~ Commissioner of the Division of Higher Education shall certify to the office the amount of net proceeds from the state lottery needed to fund the scholarships awarded to recipients under the following

scholarship programs for each semester of an academic year based on the contents of the Lottery Scholarship Trust Account at the end of the immediately preceding fiscal year:

- (A) The Arkansas Academic Challenge Scholarship Program, § 6-85-201 et seq.;
- (B) The Arkansas Workforce Challenge Scholarship Program, § 6-85-301 et seq.;
- (C) The Arkansas Concurrent Challenge Scholarship Program, § 6-85-401 et seq.; and
- (D) Any other scholarship funded with net proceeds from the state lottery.

SECTION 49. Arkansas Code § 24-7-801(4), concerning the definition of "division employees" as it pertains to alternate retirement plans for state colleges, is amended to read as follows:

(4) "Division employees" means the ~~Director~~ Commissioner of the Division of Higher Education and the professional education employees of the division;

SECTION 50. Arkansas Code § 24-7-804(c), concerning the administration of an alternate retirement plan, is amended to read as follows:

(c) The board of any college which elects to establish and maintain an alternate retirement plan and the ~~Director~~ Commissioner of the Division of Higher Education, if it elects to establish and maintain a plan, shall have authority to administer the plan and to perform or authorize the performance of all such functions as may be reasonably appropriate in its administration.

SECTION 51. Arkansas Code § 24-7-805(c), concerning agents for service of process as it pertains to alternate retirement plans, is amended to read as follows:

(c) In any action brought by a staff member or division employee on a policy or contract, any official of the college or the ~~Director~~ Commissioner of the Division of Higher Education shall be deemed to be the agent of the nonprofit company only for the purpose of service of process on the contract or policy, and for no other purpose.

SECTION 52. Arkansas Code § 24-7-807(5)(A), concerning the election of a Division of Higher Education employee who transferred from another state department or division to participate in an alternate retirement plan, is amended to read as follows:

(5)(A)(i) Any Division of Higher Education employee who transferred from another state department or division covered by a state-supported retirement system may elect to participate in an alternate retirement plan.

(ii) The employee shall file written notice of his or her election with the ~~Director~~ Commissioner of the Division of Higher Education.

SECTION 53. Arkansas Code § 24-7-907(4)(B), concerning the provision of notice by an individual who is a staff member at a vocational-technical school to participate in an alternate retirement plan, is amended to read as follows:

(B) The notice of election shall be in writing on a form established by the Department of Career Education and filed with both the ~~Director~~ Commissioner of the Division of Higher Education and the retirement system.

SECTION 54. Arkansas Code § 25-7-101 is amended to read as follows:

25-7-101. Creation – ~~Director~~ Commissioner – Organization – Personnel.

(a) There is created a Division of Higher Education.

(b)(1) The executive head of the Division of Higher Education shall be the ~~Director~~ Commissioner of the Division of Higher Education.

(2) The ~~director~~ commissioner shall be appointed, ~~in consultation with the Arkansas Higher Education Coordinating Board,~~ by the Governor and shall serve at the pleasure of the Governor.

(3) The ~~director~~ commissioner shall report to the Secretary of the Department of Education.

(c) The Division of Higher Education shall consist of the Arkansas Higher Education Coordinating Board and any other divisions ~~which~~ that may be created by law and placed under the Division of Higher Education.

(d)(1) The ~~director~~ commissioner, with the advice and consent of the Governor, and the Secretary of the Department of Education, shall appoint the

heads of the respective divisions.

(2)(A) All of the personnel of the Division of Higher Education shall be employed by and serve at the pleasure of the ~~director~~ commissioner.
~~Provided,~~

(B) ~~However,~~ nothing in this section shall be ~~so~~ construed as to ~~reduce~~ reducing any right ~~which~~ that an employee shall have under any civil service or merit system.

(e)(1) Each division of the Division of Higher Education shall be under the direction, control, and supervision of the ~~director~~ commissioner.

(2) The ~~director~~ commissioner may delegate his or her functions, powers, and duties to various divisions of the Division of Higher Education as he or she ~~shall deem~~ deems desirable or necessary for the effective and efficient operation of the Division of Higher Education.

(f) The ~~several~~ institutions of higher education in this state shall ~~be requested to~~ cooperate with the Division of Higher Education in an effort to coordinate their programs.

SECTION 55. Arkansas Code § 25-10-144(b), concerning the purposes of the Governor's Advisory Commission on National Service and Volunteerism, is amended to read as follows:

(b) The purposes of the Governor's Advisory Commission on National Service and Volunteerism are to:

(1) Assist the community engagement program and staff of the office of the ~~Director~~ Commissioner of the Division of Higher Education in setting goals, establishing priority activities, performing an advocacy role, and assisting in funding and resource development and publicity and recognition and awards programs; and

(2) Serve as the Arkansas Service Commission for the Edward M. Kennedy Serve America Act, as governed by 42 U.S.C. § 12638.

SECTION 56. Arkansas Code § 25-30-101(b)(2)(B), concerning the membership of the Director of the Division of Higher Education as a nonvoting member serving on the Career Education and Workforce Development Board, is amended to read as follows:

(B) The ~~Director~~ Commissioner of the Division of Higher Education;

SECTION 57. Arkansas Code § 26-51-1104(b), concerning the approval of a qualified research expenditure as it pertains to donations or sales of equipment to educational institutions, is amended to read as follows:

(b) To claim the credit granted by § 26-51-1102, the taxpayer shall show that the Director of the Arkansas Economic Development Commission and the ~~Director~~ Commissioner of the Division of Higher Education have approved the qualified research expenditure as a part of a qualified research program.

SECTION 58. Arkansas Code § 26-51-1105 is amended to read as follows:
26-51-1105. Rules.

The Secretary of the Department of Finance and Administration, the ~~Director~~ Commissioner of the Division of Higher Education, the Director of the Division of Career and Technical Education, the Secretary of the Department of Education, and the Director of the Arkansas Economic Development Commission shall jointly promulgate rules to carry out the purposes of this subchapter.

SECTION 59. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that it is important for the Governor to be able to expeditiously appoint an individual to serve as administrative head of the Division of Higher Education; that the Division of Higher Education ensures that state-supported institutions of higher education offer efficient and quality education to citizens of this state and other states; and that this act is immediately necessary to ensure the administrative head of the Division of Higher Education is appointed in an efficient manner for purposes of overseeing state-supported higher education in the State of Arkansas. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.